

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 1:10CR384
)	
Plaintiff,)	JUDGE SARA LIOI
)	
v.)	
)	
FRANK RUSSO,)	<u>MOTION TO CONTINUE RULE 35</u>
)	<u>HEARING</u>
Defendant.)	

Now comes the United States of America, by and through its attorneys, Justin E. Herdman, United States Attorney, and Antoinette T. Bacon and Megan R. Miller, Assistant United States Attorneys, and hereby respectfully moves this Court for a brief continuance of Defendant Frank Russo's hearing under Federal Rule of Criminal Procedure 35, which was originally scheduled for January 3, 2019.

As this Court is aware, Assistant United States Attorneys Ann C. Rowland¹ and Antoinette T. Bacon prosecuted Defendant Frank Russo's case and other related Cuyahoga County corruption cases. Ms. Bacon currently serves as an Associate Deputy Attorney General ("ADAG") for the U.S. Department of Justice in Washington, D.C. Due to a previously scheduled commitment, ADAG Bacon is unavailable to travel to Akron to attend the January 3, 2019 hearing. Given ADAG Bacon's intimate involvement in and knowledge of Defendant

¹ Ms. Rowland retired from the U.S. Attorney's Office for the Northern District of Ohio in December 2017.

Russo's prosecution and cooperation, the United States requests a brief continuance to permit ADAG Bacon to travel to Akron and attend the Rule 35 hearing. The United States respectfully requests that the Court reschedule the hearing for one of the following dates: January 11, 24, 25, 29, or 31, 2019.²

Counsel for the United States submits this Motion in good faith and not for the purpose of delay. The United States further submits that Defendant Russo will not be prejudiced by the requested continuance because this Court and all parties have agreed that Russo may participate in the hearing via videoconference. Additionally, Russo has served approximately only four years of his 262-month sentence and will not be unduly burdened by this brief continuance. Accordingly, for good cause shown, the United States respectfully requests that this Court grant a continuance as set forth in this Motion.

Respectfully submitted,

JUSTIN E. HERDMAN
United States Attorney

By: /s/ Megan R. Miller
Megan R. Miller (OH: 0085522)
Assistant United States Attorney
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3855
(216) 522-2403 (facsimile)
Megan.R.Miller@usdoj.gov

² The United States attempted to consult with counsel for Defendant Russo regarding his availability, but counsel declined to join in this Motion or discuss rescheduling dates with counsel for the government.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December 2018, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Megan R. Miller

Megan R. Miller

Assistant U.S. Attorney